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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EDWARD K.Y. JUNG, ROYCE A. LEVIEN,
ROBERT W. LORD, MARK A. MALAMUD,
and JOHN D. RINALDO JR.

Appeal 2011-001346
Application 11/258,405¹
Technology Center 2100

Before CAROLYN D. THOMAS, KRISTEN L. DROESCH, and
JOHNNY A. KUMAR, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is Searete, LLC.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's final decision rejecting claims 1, 53-55, 64-70, 73-76, 79-89, 94, 95, and 98-108, which are all the claims remaining in the application. Claims 2-52, 56-63, 71, 72, 77, 78, 90-93, 96, and 97 are cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

The present invention relates generally to searching at least one existing electronic document for possible restricted content. *See* Spec. 3:3-4.

Claim 1 is illustrative:

1. A method related to electronic communications, the method comprising:

searching at least one electronic document for restricted content, including searching at least one other electronic content referenced by the at least one electronic document; and

reviewing a result of the searching at least one electronic document for restricted content.

Appellants appeal the following rejections:

R1. Claims 1, 53-55, and 98-100 are rejected under 35 U.S.C. § 102(b) as being anticipated by Crandall (U.S. Patent Pub. 2002/0143827 A1, Oct. 3, 2002);

R2. Claims 64-70, 73-76, 79-89, and 101-108 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Crandall; and

R3. Claims 94 and 95 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Crandall and Weare (U.S. Patent Pub. 2006/0218114 A1, Sept. 28, 2006).

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of claims 1, 80, and 85 as set forth below.

See 37 C.F.R. § 41.37(c)(1)(vii).

ANALYSIS

Claims 1, 53-55, and 98-100
Under § 102(b) over Crandall

Issue 1: Did the Examiner err in finding that Crandall discloses other electronic content *referenced by* the at least one electronic document, as set forth in claim 1?

Appellants contend that the Examiner's mapping "does not address at least the 'including searching at least one other electronic content referenced by the at least one electronic document'" (App. Br. 36-37). Appellants further contend that "[e]ven assuming for the sake of argument that the second database includes alternate non-restricted terms which correspond to the restricted terms in a document, the other electronic content is not referenced by the at least one electronic document" (*id.* at 52-53 (emphasis omitted)).

The Examiner found that in Crandall:

A Document is checked for restricted content using the censor database 100. Restricted contents are then highlighted (Figure 1: element 102). A reviewer reviews the restricted content and a search is done to at least one another [sic] electronic content which is stored in generalization database (Figure 1: Element 104). This electronic document is referenced by the document that is being reviewed because as shown in Figure 2: Element

100 and 104 and Figure 3: element 31 and 300 – because for each restricted content in the document a referenced list of alternative content is displayed to use a substitute.

(Ans. 18). We agree with the Examiner.

Our interpretation of the disclosure of Crandall coincides with that of the Examiner. For example, in Crandall:

The system preferably uses a censor database of restricted or sensitive terms to filter a document for occurrences of the restricted terms. When such restricted terms are found in the document, they are highlighted or marked to preferably draw the user's attention. A second database of alternate non-restricted terms, which correspond to the restricted terms, is preferably used to offer non-restricted terms to replace the restricted ones.

(Abstract).

In other words, Crandall searches a document for restricted content, and searches another electronic content (i.e., in a second database) for content corresponding to (i.e., referenced by) the highlighted or marked terms in the electronic document. We see no error in the Examiner's equating the recited "*referenced by*" to Crandall's highlighted/marked restricted terms, given the scope and breadth of the phrase "*referenced by*." Notably, Appellants do not define the term "referenced by" in the Specification to limit its meaning. Rather, Appellants describe "referenced by" somewhat broadly, generally, and in permissive and exemplary terms, which can include, among other examples, merely directing attention to. In Crandall, the highlighted terms in the electronic document direct attention to other content in the second database.

Furthermore, Crandall discloses that "the highlighting placed by the censor may also preferably include hypertext functionality, such that as a

user clicks or selects the particular highlighted text . . . a list of the corresponding non-restricted terms preferably pops up” (¶ [0023]). We find that this is further evidence of Crandall disclosing other electronic content *referenced by* the electronic document.

As such, we find that the Examiner did not err in finding that Crandall discloses searching other content referenced by the electronic document, as set forth in representative claim 1 and claims 53-55 and 98-100, which were not argued separately.

*Claims 64-70, 73-76, 79, 81-84, 86-89, and 101-108
Under § 103(a) over Crandall*

Appellants contend that the above-noted claims are patentable for at least the reasons why claim 55 is patentable (*see* App. Br. 59), which we found unpersuasive (*see supra* analysis regarding representative claim 1). As such, we affirm the rejection of claims 64-70, 73-76, 79, 81-84, 86-89, and 101-108.

*Claim 80
Under § 103(a) over Crandall*

Issue 2: Did the Examiner err in finding that Crandall teaches and/or suggest searching an addition referenced by the at least one existing electronic document, as set forth in claim 80?

Appellants contend that “Crandall does not show the other electronic content is not referenced by the at least one electronic document.

Consequently, on its face, Crandall does not show the text of Clause [d] of Claim 80” (App. Br. 64). In essence, Appellants argue that because the

above-noted underlined limitation is not shown in Crandall, clause [d] is also not shown. As noted *supra*, we find that Crandall does disclose searching other content referenced by the electronic document. As a result, we find Appellants' argument unavailing.

Furthermore, we find Appellants have failed to present *substantive* arguments and supporting *evidence* persuasive of Examiner error regarding the aforementioned disputed limitation. See *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”). We decline to examine the claims *sua sponte*, looking for distinctions over the prior art. Cf. *In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991) (“It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for [patentable] distinctions over the prior art.”). See also *Ex parte Belinne*, No. 2009-004693, 2009 WL 2477843 at *3-4 (BPAI Aug. 10, 2009) (informative).

As such, we affirm the rejection of claim 80.

Claim 85
Under § 103(a) over Crandall

Issue 3: Did the Examiner err in finding that Crandall teaches and/or suggests searching a word that exists within the at least one existing electronic document with a higher frequency than a pre-designated threshold frequency, as set forth in claim 85?

Appellants contend that “[e]ven assuming for the sake of argument that ‘0’ is a frequency, it is not a pre-designated threshold frequency that can be predetermined by a user, for example” (App. Br. 70 (emphasis omitted)).

The Examiner found that “Figure 2: Element 200 – displays an electronic document that was searched for restricted content with the frequency being higher than 0, where the pre-designated threshold frequency is equal to 0” (Ans. 20). We agree with the Examiner.

For example, Crandall discloses “a censoring system that reviews documents for selected sensitive terminology” (¶ [0007]). In Crandall, all sensitive content is filtered and highlighted (¶ [0008]). In other words, a sensitive word occurring more than zero times is highlighted. We find that the claimed “searching . . . for a word that exists . . . with a higher frequency than a pre-designated threshold frequency” *reads on* Crandall’s search of sensitive words with an inherent frequency threshold of more than zero.

As such, we find that the Examiner did not err in finding that Crandall discloses “searching . . . for a word that exists . . . with a higher frequency than a pre-designated threshold frequency,” as recited in claim 85.

Claims 94 and 95
Under § 103(a) over Crandall and Weare

Appellants contend that the above-noted claims are patentable for at least the reasons why claim 55 is patentable (*see* App. Br. 59), which we found unpersuasive (*see supra* analysis regarding representative claim 1). As such, we affirm the rejection of claims 94 and 95.

DECISION

We affirm the Examiner’s §§ 102 and 103 rejections.

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Application 11/258,405

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

msc